

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

WILLIE BAKER, JR.,)	
)	
Plaintiff,)	
)	
v.)	No. 4:11CV1668 MLM
)	
JOHN COCHRAN, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's amended complaint. The Court previously ordered plaintiff to file an amended complaint because the original complaint did not allege sufficient facts to show jurisdiction under 28 U.S.C. § 2675(a). Having reviewed the amended complaint, the Court will dismiss this action for lack of jurisdiction.

Plaintiff brings this action against officials and doctors of the Department of Veterans Affairs for alleged medical malpractice. To bring an action in federal court against the VA under the Federal Torts Claims Act, 28 U.S.C. § 1346, a plaintiff must first present his or her claim to the appropriate federal agency pursuant to 28 U.S.C. § 2675(a). Non-compliance with § 2675(a) operates as a jurisdictional bar to proceeding in federal court. McCoy v. United States, 264 F.3d 792, 795 (8th Cir. 2001) ("A litigant may not base any part of his tort action against the United States on

claims that were not first presented to the proper administrative agency.”). Moreover, an action against the United States may only be brought after the federal agency issues its final disposition of the matter in writing. 28 U.S.C. § 2675(a).


Plaintiff does not allege that he presented his claim to the VA, nor does he allege that he received a final disposition of the matter from the agency. Plaintiff alleges that he told his advocate at the VA of the problems that he was having, and he alleges that he sent a letter to the VA requesting that he be seen by other physicians. However, these allegations do not establish that he presented his claim to the VA in compliance with 28 U.S.C. § 2675(a). Consequently, the Court lacks subject matter jurisdiction of this action.

Accordingly,

IT IS HEREBY ORDERED that this action is **dismissed** for lack of subject matter jurisdiction.

An Order of Dismissal will be filed separately.

Dated this 7th day of November, 2011.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE